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Report to the Chairman, Employment  
and Housing Subcommittee, Committee  
on Government Operations, House of  
Representatives

August 1992

# HOMELESSNESS

## HUD's Interpretation of Homeless Excludes Previously Served Groups

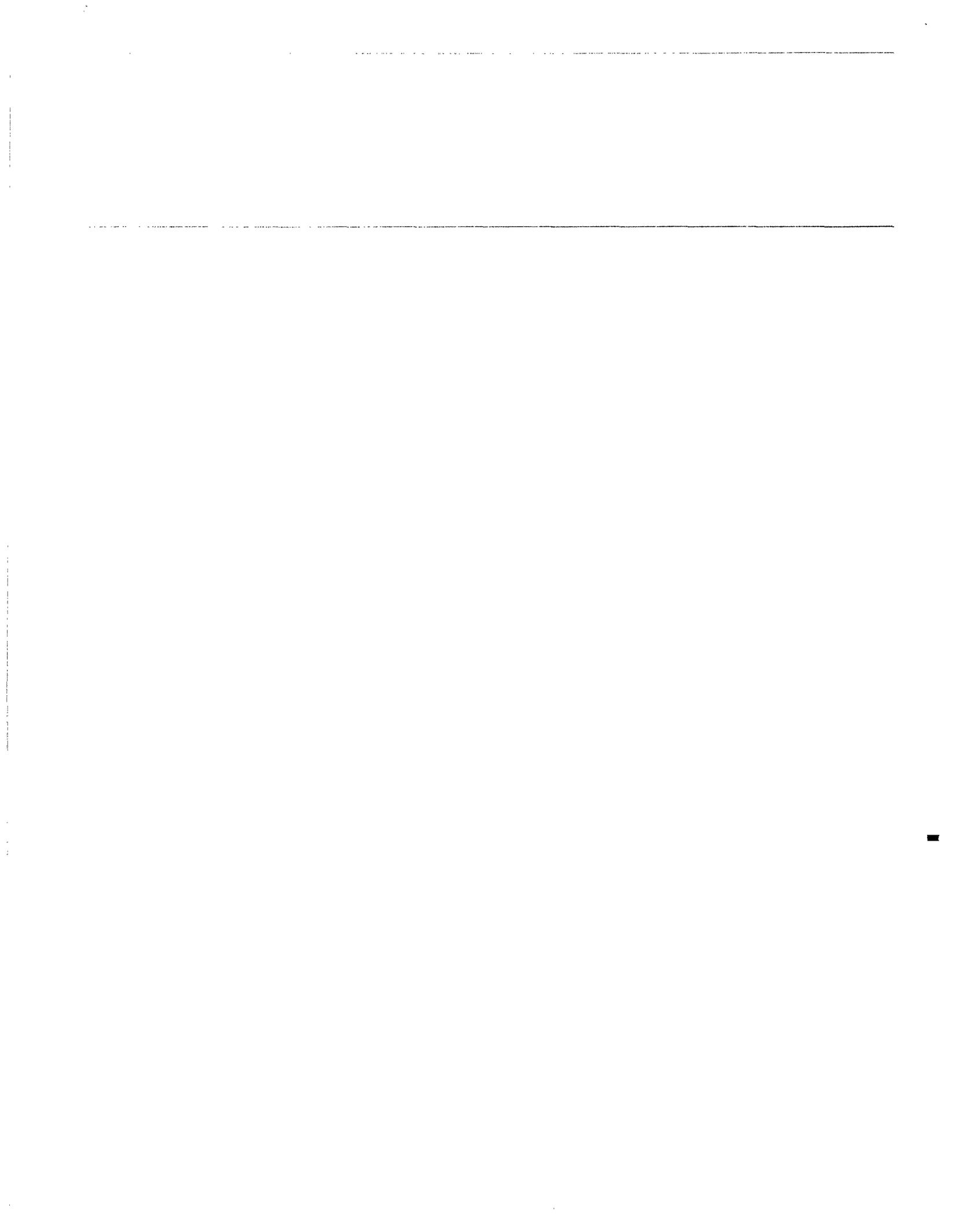


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**Resources, Community, and  
Economic Development Division**

B-248994

August 12, 1992

The Honorable Tom Lantos  
Chairman, Employment  
and Housing Subcommittee  
Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the Department of Housing and Urban Development's (HUD) interpretation of the McKinney Act's definition of homeless. The McKinney Act initially authorized 20 programs to assist the homeless, and HUD is responsible for administering 5 of these programs. According to some homeless assistance providers, for purposes of determining eligibility for HUD's McKinney programs, HUD has narrowed the definition to include persons living only on the street or in shelters. As agreed, we are providing you with information on (1) HUD's interpretation of the definition of homeless; (2) ambiguities in HUD's definition of homeless; and (3) the effects of this interpretation on persons who are deinstitutionalized, living doubled up, and living without accommodations in rural areas.

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**Results in Brief**

From the time the McKinney Act was passed in 1987 until 1991, HUD did not have its own definition of homeless or did not specify the type of individuals that would be eligible for its McKinney Act programs. As a result, some of HUD's programs assisted individuals who were not only literally homeless—those in emergency shelters or on the street—but also those who were precariously housed, including those living doubled up or in substandard housing.

In 1991 HUD formally established eligibility criteria for its McKinney Act programs. According to HUD program officials, until 1991 HUD's McKinney Act programs were serving many persons who were not literally homeless. To better target its limited resources, HUD began directing its McKinney Act funds to programs that serve persons who are literally homeless, with the only exception for those who are virtually certain of becoming homeless in the immediate future.

Although HUD has revised its guidance on McKinney Act program eligibility, some of the terms and definitions that govern the HUD field

offices and assistance providers' activities remain vague. Terms defining the target population as those who are "imminently" homeless or "in the later stages" of eviction may be interpreted differently by the various HUD field offices. As a result, program applicants and assistance providers have experienced inconsistency and confusion concerning program eligibility from HUD headquarters and field offices.

HUD's new eligibility criteria have the effect of making certain activities and groups that had previously been served ineligible for HUD's McKinney Act programs. Three groups of individuals are most affected by this change: (1) institutionalized mentally ill or retarded persons, (2) persons doubled up with family or friends or living in substandard housing, and (3) the rural homeless—who are often "hidden" in overcrowded or substandard housing.

## Background

The Stewart B. McKinney Homeless Assistance Act (P.L. 100-77, July 1987) was enacted to respond to a crisis—the lack of shelter and related support services—facing a growing number of individuals and families in the United States. The act was the first comprehensive law dealing with assistance for the homeless, and it initially authorized 20 programs to assist the homeless for fiscal years 1987 and 1988. Subsequent reauthorizations have refined programs, removed some programs and added others, and amended other laws to consider the special needs of the homeless. Currently, the McKinney Act comprises 23 separate programs.

HUD manages five McKinney programs: Emergency Shelter Grants (ESG), the Supportive Housing Demonstration Program (SHDP), Supplemental Assistance for Facilities to Assist the Homeless (SAFAH), the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals, and Shelter Plus Care for the Homeless. Since the McKinney Act was passed in 1987, the Congress has appropriated about \$1.5 billion for McKinney Act programs managed by HUD. The other programs funded are administered by the Federal Emergency Management Agency and the Departments of Education, Health and Human Services, Labor, and Veterans Affairs.<sup>1</sup>

The McKinney Act defines homeless persons to include (1) an individual who lacks a fixed, regular, and adequate nighttime residence and (2) an individual who has a primary nighttime residence that is a supervised,

<sup>1</sup>For a detailed description of the McKinney Act programs, administered by HUD and other agencies, see *Homelessness: McKinney Act Programs and Funding Through Fiscal Year 1990* (GAO/RCED-91-126, May 1, 1991).

publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or regularly used as, a regular sleeping accommodation for human beings.

Although the McKinney Act provides a general definition of the population to be served by McKinney Act programs, the individual programs are designed to serve varying subgroups of the overall homeless population. The importance of the definition is evident when an agency is charged with managing a program to serve homeless persons. Depending on the individual program focus, the McKinney Act can fund a variety of literally homeless or near-homeless populations. For example, the Transitional Housing Demonstration component of the Supportive Housing Demonstration Program targets homeless families with children and the deinstitutionalized and mentally disabled. In contrast, Emergency Shelter Grants Program funds may be used to prevent homelessness by providing financial assistance to eligible families to help pay utility bills, security deposits, or back rent.

Estimates of the number of homeless persons in the United States vary substantially, and the definition of homeless used to survey these persons affects the estimates. For example, in 1984, HUD estimated that on any given night during December 1983 and January 1984, between 250,000 and 350,000 persons were homeless.<sup>2</sup> For the study, HUD defined a homeless person as one who resided in a shelter or a public or private place not designed for human habitation. In 1987 the Urban Institute used an expanded definition that included persons who resided in a shelter or hotel/motel paid for by a voucher or other instrument or those who stayed with a relative or friend "with whom they did not have a regular arrangement to stay for 5 or more days a week." The Urban Institute estimated that about 600,000 individuals were homeless on any given night in 1987.<sup>3</sup>

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<sup>2</sup>U.S. Department of Housing and Urban Development, A Report to the Secretary on Homeless and Emergency Shelters (Washington, D.C.: Office of Policy Development and Research, 1984).

<sup>3</sup>Martha R. Burt and Barbara S. Cohen, America's Homeless: Numbers, Characteristics, and Programs That Serve Them (Washington, D.C.: The Urban Institute, 1989).

## HUD's Interpretation of the Definition of Homeless for Funding Its McKinney Programs

In late 1989, HUD created the Office of Special Needs Assistance Programs to manage HUD's McKinney Act programs. As HUD officials became acquainted with the McKinney Act programs, they found that the programs were serving many persons who were not literally homeless. For example, HUD had funded programs that served precariously housed and other low-income persons in addition to homeless people. At that time, HUD had not defined who was eligible for its McKinney Act programs.

HUD first presented its interpretation of who is homeless and therefore eligible for all of HUD's McKinney Act programs in its January 1991 notice of funding availability (NOFA) for the Supportive Housing Demonstration Program. HUD stated in the notice that because of "limited resources and considerations of relative need," the Department would accept applications proposing assistance for only families, individuals, and handicapped persons who met a specific list of conditions including (1) living on the street or in a shelter, (2) facing eviction without a subsequent residence identified, resulting in emergency shelter placement, and (3) leaving an institution without a subsequent residence or the resources/networks needed to obtain housing. HUD expressly stated that applications for programs to assist individuals who were currently housed but at risk of becoming homeless because they were living in overcrowded or substandard conditions would not be accepted. Similarly, proposals to assist handicapped persons who were about to be released from institutions would be denied in states whose policy was not to release an individual until a subsequent residence had been identified.

HUD program officials became concerned that the limited funds provided through the McKinney Act could not possibly support programs to assist the numbers of persons that researchers have estimated to be homeless and/or at risk of becoming homeless. Currently, HUD's programs provide benefits for only a fraction of the hundreds of thousands of persons it estimates are homeless, let alone those who are at risk of becoming homeless. For example, HUD's McKinney Act programs serve the following:<sup>4</sup>

- According to the Interagency Council on the Homeless, the Emergency Shelter Grants program has, from its inception in 1986 through fiscal year 1988 (the latest year for which detailed data are available), provided assistance to over 2,000 shelters with the capacity to serve more than 70,000 persons.

<sup>4</sup>Awards for the Shelter Plus Care Program were made in June 1992; therefore, estimates of numbers served by the program are not available.

- Fiscal year 1991 funds for Transitional and Permanent Housing projects can be used to provide units for approximately 3,571 homeless persons.
- As of September 1991, 46 Section 8 Single Room Occupancy projects were operational, providing a total of 1,575 rehabilitated living units primarily for the homeless.
- The SAFAH program, which provides support services to homeless families, such as child care, training, and rental assistance, served an estimated 13,724 homeless in 20 facilities during fiscal year 1990.

As a follow-up, in March 1991, HUD program officials sent a memorandum to regional and field office directors stating that the Department was targeting homelessness assistance resources to families and individuals who were either homeless or virtually certain of becoming homeless in the immediate future. In the memorandum and the accompanying documents, HUD program officials expressed concern that after reviewing HUD's programs for the homeless, they had found that the programs were serving some persons already housed and unlikely to become homeless. According to HUD officials, the Department adopted the new targeting policy to ensure that the limited resources available under programs for assisting the homeless would be used to help those persons most in need.

As a result, in 1991 and 1992, some homeless assistance providers operating programs funded by HUD's McKinney grants were told that the population served by their programs did not meet HUD's new criteria. HUD disqualified some applications because the target population was judged ineligible on the basis of language in the notice. In one case, assistance providers agreed to accept those persons who fell only within this more restrictive interpretation of homeless in order to maintain HUD's funding.

Those who expressed concern about HUD's criteria for determining eligibility for program benefits questioned the legality of HUD's establishing new eligibility criteria without obtaining public comment. However, on January 6, 1992, HUD published a proposed rule in the Federal Register delineating changes in its Supportive Housing Demonstration Program. The proposed rule included a section on HUD's "understanding of the statutory definition of the term homeless" for determining eligibility in HUD's five McKinney Act programs. Comments were due in early March 1992.

HUD received 39 letters commenting on the proposed rule. One-third referred to HUD's interpretation of "homeless." Of these 13 letters, 9 discussed the mentally ill or disabled, 5 discussed those who were doubled

up or living in substandard housing, and 1 discussed the rural homeless.<sup>5</sup> In each of these cases, those commenting were concerned that persons falling within these categories would be excluded from HUD's McKinney Act programs. Concerns expressed included the lack of resources to assist the mentally ill discharged from hospitals, the needs of those living in substandard or overcrowded housing, and the needs of those living under extremely unsafe or unsanitary conditions. As of July 1992, HUD had not issued final regulations.

## HUD's April 1992 Memorandum Clarifies Some Issues, but Some Ambiguities Remain

In April 1992 HUD published a memorandum to clarify issues concerning its interpretation of homeless for McKinney Act programs. Prior to HUD's issuing the memorandum, providers told us that HUD's regional and field staff sometimes gave them information that conflicted with information provided by headquarters. One HUD official noted that he was aware that some HUD field staff may have misinterpreted headquarters' position by taking the directives "too literally" by equating such terms as imminently homeless as homeless within 24 hours or stating that persons only in shelters or on the street were eligible for HUD's McKinney Act programs. A state official and program applicant stated that he had encountered two different verbal interpretations of HUD's definition of homeless from separate HUD offices. Specifically, one HUD office told the state official that no persons leaving mental health institutions were eligible for the program, while another office said that persons leaving such facilities were eligible as long as there was documentation to support the fact that other resources had been contacted and no other alternatives were available to the potential client. However, HUD program officials pointed out that field offices do not make any funding decisions and are not authorized to reject applications.

HUD officials recognized that there was still confusion about who was eligible to receive benefits from HUD's McKinney Act programs and, in April 1992, issued a memorandum to guide HUD's field offices in informing applicants and grantees about who is eligible. The memorandum points out that HUD's programs for the homeless are not limited to people living in shelters or on the street and that, under certain circumstances, the programs may serve some persons who are being released from institutions and others who are about to become homeless.

<sup>5</sup>The comments discussed do not equal the number of letters submitted because two of the letters commented on more than one at-risk population.

Although the memorandum partially clarifies HUD's standards for determining program eligibility, several issues remain unclear. For example, the memorandum, which is presented in question-and-answer format, addresses whether persons coming from residential treatment programs are eligible for HUD's programs for the homeless. The memorandum states that persons who have lived on the street and/or in an emergency shelter most of the time but are staying for a short time in a hospital or other residential treatment facility will be considered homeless if (1) their stay in the facility has been of short duration, (2) they lack financial resources and a support network to obtain housing, and (3) they have no housing identified at the completion of their stay. HUD does not define what it considers a stay of short duration, and HUD's field offices must decide whether a short stay is a week, a month, or more.

On another question, HUD states that interpreting the standard for homeless as requiring a person to be homeless within 24 hours is too literal an interpretation. However, in explaining who may be eligible for assistance, HUD provides a vague answer, stating that a person who is in the later stages of being evicted from a dwelling unit or discharged from an institution may be eligible for assistance when his or her removal is imminent and the person does not have resources to obtain other housing. HUD does not further define imminent for the purposes of program eligibility.

For assistance providers who must ensure that their program participants meet resident selection policy standards and pass an annual review by HUD's field staff, these definitions are very important. If an assistance provider admits to its program persons who fall outside of HUD's definition of homeless, HUD may not continue to fund the program—as it did in the case of a program accepting persons directly from mental health institutions in Virginia. Therefore, HUD's program standards for eligibility need to be clearly understood, since these standards are used to determine whether a program is eligible to receive McKinney Act funding.

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## HUD's Targeting Policy Eliminates Some Groups That Were Previously Served

With few exceptions, three groups previously served under HUD's McKinney Act programs are now excluded—the institutionalized mentally ill, persons who are doubled up with friends or family or living in substandard housing, and the rural homeless. According to HUD, a homeless person lives on the street or in a shelter or, in some cases, is about to be evicted from permanent housing and lacks access to, and resources to obtain, other permanent housing. Generally, the three groups

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mentioned above do not fall within HUD's interpretation of the definition of homeless.

Of these three groups, the institutionalized mentally ill may be the most vulnerable and therefore the least able to assume responsibility for obtaining and staying in permanent housing. According to a 1991 study prepared for HUD,<sup>6</sup> research has demonstrated that the greatest risk of homelessness for psychiatric inpatients occurs immediately following their discharge from the hospital. HUD officials concur with the study results but told us that these persons are outside of the purview of its McKinney Act programs. HUD also notes that states and communities, not HUD, must be responsible for discharged mentally ill persons.

One state mental health official took issue with HUD's characterization of state policies. According to HUD, some states will not discharge institutionalized persons until a subsequent permanent residence has been identified. HUD views these persons as currently housed and not threatened with homelessness. The official, who resides in a state that HUD has designated as having such a policy, strongly disagrees with HUD's viewpoint. In attending patient-discharge planning meetings, the official discovered that patients were not discharged to emergency shelters that limit stays to only one night, but they were discharged to other shelters that permitted longer stays—maybe up to 30 days. In some cases, the hospital would fund a patient's stay in a hotel for 2 weeks. After the temporary stay is over—whether in a shelter or a hotel—the hospital is no longer responsible for that person, even though he or she may be incapable of finding other housing.

By limiting eligibility to the literally homeless, HUD may create a void for the deinstitutionalized mentally ill in those states and communities that do not provide alternative placement. Because of the special needs of this population, the Federal Task Force on Homelessness and Severe Mental Illness concluded that effective discharge planning requires the establishment of links between hospitals and community-based programs to ensure the availability and coordination of housing and support services.<sup>7</sup>

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<sup>6</sup>S.J. Newman, "The Severely Mentally Ill Homeless: Housing Needs and Housing Policy" (unpublished paper prepared for the U.S. Department of Housing and Urban Development, 1991).

<sup>7</sup>Federal Task Force on Homelessness and Severe Mental Illness, Outcasts on Main Street (Washington, D.C.: Interagency Council on the Homeless, 1992).

Other homeless experts argue that persons doubled up with friends or family or living in substandard housing should be considered homeless. HUD officials note that most people living in overcrowded or substandard housing never become homeless and cautioned against failing to distinguish between the poorly housed and the truly homeless. In a recent study of homeless families,<sup>8</sup> however, Stanford researchers found that homeless families had formerly resided in housing with an average of 2.1 persons per room, while at-risk families lived in housing with an average of 1.25 persons per room. Furthermore, the exclusion of those living doubled up with friends or family and those living in substandard housing also affects the rural homeless, who, according to the Interagency Council on the Homeless, are reportedly "hidden" and often receive temporary shelter and assistance from friends and relatives.

HUD officials have been faced with a difficult decision to determine who is served with the limited funds available. All of these persons may still be assisted if they meet HUD's criteria of being imminently homeless. However, under the current guidelines, the extent to which the formerly served groups will be served in the future is not clear. HUD pointed out that the federal government funds programs to serve individuals who are extremely poor and at risk of becoming homeless but not literally homeless. For example, HUD's Section 8 programs received \$8.9 billion for fiscal year 1991 to house low-income families. However, obtaining a unit in public housing or receiving Section 8 assistance frequently means being placed on a waiting list for over a year.

In addition, some state and local governments have developed programs to aid homeless groups not funded through the HUD programs. According to a legal advocate for the homeless in Washington, D.C., the District of Columbia government has established a program targeting the deinstitutionalized homeless. The program has set aside 200 housing units to accommodate homeless patients as they are released from mental health facilities. Patients are then referred to providers contracted by the city. Services provided include mental health care, social services, and housing services.

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## Conclusions

HUD has initiated a new policy that focuses resources for the homeless on the literally homeless, with some exceptions. According to HUD, the limited funding available for HUD's McKinney Act programs permits benefits for

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<sup>8</sup>The Stanford Center for the Study of Families, Children and Youth, The Stanford Studies of Homeless Families, Children, and Youth (Stanford, Calif., 1991).

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only a fraction of the persons estimated to be literally homeless. Therefore, HUD will no longer serve previously served groups of near-homeless persons.

Nevertheless, in implementing the new policy, HUD has not provided its field offices with sufficiently explicit directives for interpreting the policy and determining who is eligible to receive McKinney Act program benefits. In describing who is eligible to participate in HUD's programs for the homeless, the directives use terms such as imminent and phrases such as of short duration and in the later stages that may be interpreted differently by different field offices. Because of these vague terms, HUD's field offices may provide inconsistent and confusing guidance to program applicants and assistance providers, who then assist ineligible persons or, conversely, deny assistance to eligible persons.

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## Recommendation

We recommend that the Secretary of HUD ensure the completion of departmental efforts to establish more specific guidelines for defining homeless. These guidelines should clarify the terms imminent, of short duration, and in the later stages and should be specific enough to be consistently interpreted and applied.

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## Agency Comments and Our Evaluation

We met with agency officials from HUD, including the Director of the Special Needs Assistance Programs, who reviewed and concurred with the facts concerning the programs and processes used to develop HUD's definition of homeless. As requested, we did not obtain written agency comments. HUD officials stressed that the definition of who is homeless is particularly sensitive and expressed concern that we appear to approach the issue from a different perspective. Whereas we discussed those groups now excluded from HUD's McKinney Act programs, HUD officials suggested that, from their point of view, HUD has expanded the definition of homeless and is willing to consider eligibility for programs for the homeless on a case-by-case basis. According to HUD, certain groups of near-homeless persons, who are not designated as homeless in the act, are being served through HUD's McKinney Act programs. We agree that our approach to the issue was from a different perspective; however, our objective was to determine how HUD's interpretation affected certain groups. As a result, we found that these groups were generally excluded from HUD's McKinney Act programs.

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HUD did not agree with our recommendation. HUD agreed that the April 1992 memorandum still contained some vague terms, but it noted that strict definitions would preclude program officials from determining eligibility for near-homeless persons on a case-by-case basis—a practice that HUD believes benefits many near-homeless persons. We disagree with HUD on this point and continue to believe that it is important for field offices to provide program applicants with consistent information about HUD's McKinney Act program eligibility standards and that this consistency will not be attainable until these terms are clarified. As presented earlier, the evidence shows that questions from the field offices concerning HUD's interpretation of who is eligible for its programs were not sufficiently answered. We believe that this condition raises equity and consistency questions that necessitate more specific guidelines along the lines noted in our recommendation.

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## Scope and Methodology

To address our objectives, we interviewed HUD staff at headquarters and several field offices to determine exactly how HUD headquarters defines homeless and how the Department's field offices are interpreting the definition to program applicants. For these interviews, we chose the field offices where we had interviewed program applicants. Program applicants and assistance providers were interviewed to find out how the targeting policy has affected their programs and the persons whom they serve. We selected these providers and applicants because they had filed complaints or expressed concern about HUD's interpretation of who is homeless. Since HUD had recently obtained comments on a proposed rule that discussed its interpretation of the definition of homeless, we reviewed the public comments to capture constituents' concerns.

To obtain a more complete picture of the effects of HUD's targeting policy, we discussed HUD's interpretation of the definition of homeless with experts involved in various aspects of homelessness—i.e., legal and advocacy groups, mental health associations, and experts in the fields of housing policy and homelessness—to obtain their views on the policy's effect on the homeless population. We conducted our review from February to June 1992 in accordance with generally accepted government auditing standards.

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As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days from the date of this letter. At that time, we will send copies to the Secretary of

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Housing and Urban Development and other interested parties. We will make copies available to others upon request.

This report was prepared under the direction of Judy A. England-Joseph, Director, Housing and Community Development Issues, who may be reached at (202) 275-5525. Other major contributors to this report are listed in appendix I.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "J. Dexter Peach".

J. Dexter Peach  
Assistant Comptroller General



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# Major Contributors to This Report

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